

## PRISONERS' LEGAL SERVICES OF MASSACHUSETTS

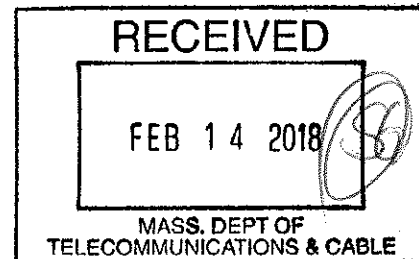
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State prisoner speed dial: \*9004# • County prisoner collect calls: 617-482-4124

February 14, 2018

### VIA EMAIL AND FIRST CLASS MAIL

Commissioner Karen Charles Peterson  
Department of Telecommunications and Cable  
1000 Washington Street, Suite 820  
Boston, MA 02118-6500



RE: DTC 11-16, Petition of Recipients of Collect Calls from Prisoners at Correctional Institutions in Massachusetts

Dear Commissioner Peterson :

Petitioners in the above-titled case seek to address the unjust and unreasonable cost of Inmate Calling Service (ICS) in Massachusetts, represented by Prisoners Legal Services (PLS). PLS is now proceeding with an action against Securus Technologies, Inc. (Securus) under the Massachusetts Consumer Protection Act, G.L. c. 93A. Our letter notifying Securus of our claims is attached as a courtesy.

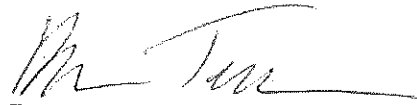
We are proceeding with the Chapter 93A action based on our understanding that the Department is not exercising jurisdiction over Securus. Securus withdrew and cancelled its M.D.T.C. Tariff No. 1 effective August 1, 2016 with the argument that, as a provider of Internet-Protocol enabled service, it is exempt from regulation by G.L. c. 25C § 6A and, shortly after, requested that it be removed from the service list in this case. Subsequently, in response to a request from the Petitioners, Hearing Officer Sean Carroll wrote to Counsel for Securus Paul Besozzi Esq., informing him that Securus may not be removed from the service list absent a decision of the Department.

Since then, to our knowledge, the Department has not objected to Securus' withdrawal of its Tariff or otherwise sought to enforce against Securus the interim intrastate ICS rates established in your Interlocutory Order in this case of June 14, 2016. In the eight Massachusetts counties where it holds ICS contracts, Securus has been charging per-call fees from \$2.65 to \$3.75, in addition to per-minute charges, in clear violation of your Order.

Therefore we assume that the Department does not contest Securus' argument that it lacks jurisdiction. Please inform us at your earliest convenience if this is not the case.

Many thanks for your attention to this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Bonita Tenneriello', with a long horizontal flourish extending to the right.

Bonita Tenneriello, Esq.  
Elizabeth Matos, Esq.

cc: Parties of record  
General Counsel Sandra Merrick, Esq.  
Hearing Officer Courtney Hickson, Esq.

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February 14, 2018

Dennis Reinhold  
Vice President and General Counsel  
Securus Technologies, Inc.  
4000 International Parkway  
Carrollton, Texas 75007

Re: Massachusetts Consumer Protection Act  
M.G.L. c. 93A Demand Letter on behalf of  
Kellie Pearson, the Law Offices of Mark Booker, Roger Burrell, and Brian Givens,  
individually and as representative for all others similarly situated.

Dear Mr. Reinhold:

We represent Kellie Pearson, the Law Offices of Mark Booker, Roger Burrell, and Brian Givens, acting individually and on behalf of all others similarly situated. We write this demand letter pursuant to Massachusetts General Laws, Chapter 93A, Section 9, of the Massachusetts Consumer Protection Act. Securus Technologies Inc. ("Securus") has engaged in unfair and deceptive practices related to charges for the delivery of telephone service for prisoners at correctional facilities operated by the Bristol County, Massachusetts Sheriff's Office ("BCSO"). This letter describes the conduct for which Securus is liable under Massachusetts law. It also states the resulting injuries to Kellie Pearson, the Law Offices of Mark Booker, Roger Burrell, and Brian Givens (and other class members), and sets forth a demand for relief.

Kellie Pearson is a mental health clinician residing in Fall River, Massachusetts. Between September 2015 and June 2017, Pearson received and paid for calls from her husband, Michael T. Ray, who was during that time incarcerated at the Bristol County House Of Correction.

The Law Offices of Mark Booker is a criminal defense law firm in Boston, Massachusetts. The office receives and pays for calls that it receives from its incarcerated clients, including clients in Bristol County correctional facilities.

Roger Burrell is currently incarcerated at the Bristol County House Of Correction. He uses the telephone system operated by Securus to make calls to his mother and sister and to legal counsel, all Massachusetts residents.

Brian Givens is currently incarcerated at the Bristol County House Of Correction. He uses the telephone system operated by Securus to make calls to his attorney and to his friend, both Massachusetts residents.

Securus competes for exclusive telephone-service provider contracts in state and county correctional facilities across the country. During the contract procurement process, Securus includes "site commissions" in its contract proposals. Site commissions are fees added to the costs of a phone call from the correctional facilities to induce sheriffs and other facility operators to select among providers based on economic self-interest, rather than on only the price and quality of inmate calling services. Securus has a current contract with the BCSO that includes site commissions or analogous payments.

Securus has violated the Massachusetts Consumer Protection Act and caused harm to Pearson (and class). The violations include, but are not limited to:

- a. Inflation of the call rates and fees charged by Securus for calls made by prisoners in correctional facilities operated by the BCSO, and using the additional revenue to pay "site commissions" to the BCSO. These fees are charged to prisoners' families, friends, and attorneys, but the fees bear no relationship to the actual cost of providing inmate calling services and are not used to enhance call quality or service;
- b. Conversion of the monies paid by Pearson and the class for artificially high calling rates used by Securus to pay illegal and unfair kickback payments to the Sheriff;
- c. In Massachusetts, sheriffs are not authorized to charge or receive site commissions from prisoner collect calls. As the Supreme Judicial Court of Massachusetts has held, sheriffs are not permitted to charge fees absent an explicit statutory mandate. *Souza v. Sheriff of Bristol Cty.*, 455 Mass. 573, 579 (2010). Neither the sheriff nor Securus has legislative authorization to charge or distribute excess fees from prisoner collect calls. Because no statutory scheme "affirmatively permit[s]" such payments, the site commissions that Securus pays to the BCSO, although it is a government entity, are illegal and not immune from the coverage of the Massachusetts Consumer Protection Act. *Com. v. Fremont Inv. & Loan*, 452 Mass. 733, 750 (2008);
- d. To the extent that the BCSO uses the site commissions it receives from Securus, derived from prisoner calls, to pay for running its facilities, Pearson and the class members have been coerced by Securus into subsidizing the continued incarceration of BCSO prisoners.
- e. Because Securus operates as a monopoly provider to a captive market, Pearson and the class members have no choice but to use its services. Securus has abused its market power by inflating the price of calls to fund unlawful site commissions. That practice is both oppressive and unconscionable, and is thus unfair and deceptive within the meaning of the Massachusetts Consumer Protection Act. M.G.L. ch. 93A, sec. 2; Mass. Regs. Code. Tit. 940, sec. 3.16(1).

As a result of the activities of Securus described above, and other activities, Pearson (and class) have suffered substantial injury due to the inflated prices they must pay when they receive collect calls from prisoners in BCSO jails. Therefore, Securus is liable for these unfair and deceptive practices.

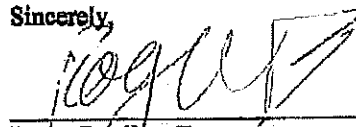
What appears in this letter is not an exhaustive recitation of the facts or law that may give rise to Securus's liability under the Massachusetts Consumer Protection Act. This letter serves merely as "a written demand for relief, identifying the claimant and reasonably describing the unfair or deceptive act or practice relied upon and the injury suffered" as required by M.G.L. c. 93A, sec. 9.

Kellie Pearson, the Law Offices of Mark Booker, Roger Burrell, and Brian Givens (and class) request the following relief as a result of Securus's conduct described above: reimbursement of all excess fees and charges paid by Pearson and class during the period within the applicable statute of limitations to Securus, including but not limited to the site commissions Securus paid to the BCSO, as a result of its unfair and deceptive practices. Pearson and class further request that Securus immediately cease and desist from charging inflated call rates and fees, and cease and desist from paying site commissions or analogous amounts to the BCSO.

Failure to make a reasonable written tender of relief within thirty (30) days of your receipt of this demand letter may result in Securus's liability for treble damages, costs, and reasonable attorneys' fees pursuant to Mass. Gen. Laws. Ann, sec. 93A, sec. 9.

We look forward to hearing from you.


Sincerely,



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